

ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
GOVERNMENTAL CENTER

Tuesday, July 18, 2006

Present: Commissioner President Thomas F. McKay

Commissioner Kenneth R. Dement

Commissioner Lawrence D. Jarboe

Commissioner Thomas A. Mattingly, Sr.

Commissioner Daniel H. Raley

George G. Forrest, County Administrator

Betty Jean Pasko, Senior Admin. Coordinator (Recorder)

The meeting was called to order at 9:20 AM

ADDITIONS/DELETIONS TO AGENDA

Decision on zoning ordinance text amendments to add a residential component and set residential density limits in the OBP was removed from the agenda. *George Forrest and*

John Savich to come back at next week's BOCC meeting with recommendation on how to proceed.

APPROVAL OF CHECK REGISTER

Commissioner Raley moved, seconded by Commissioner Jarboe, to authorize the Commissioner President to sign the Check Register as presented. Motion carried 5-0.

APPROVAL OF MINUTES

Commissioner Mattingly moved, seconded by Commissioner Dement, to adopt the minutes of the Commissioners' meeting of July 11, 2006, as corrected. Motion carried 5-0.

COUNTY ADMINISTRATOR

1. Draft Agendas for July 25 and August 1, 2006

2. Department of Public Works and Transportation (*George Erichsen, P.E., DPW&T Director*)

Commissioner Mattingly moved, seconded by Commissioner Jarboe, to approve and sign the Resolutions to: accept Mitchell Drive, Abraham Drive, Candella Place, Klear Court, J. M. Gough Court, North Gunnell Drive, and South Gunnell Drive located in the Villages at Leonardtown Subdivision, 3rd Election District, into the County's Highway Maintenance System, and to post 25-mph speed limit and stop signs on said roads. Motion carried 5-0.

Commissioner Raley moved, seconded by Commissioner Dement, to approve the Public Works Agreement Addendum for Orchard Park at Wildewood Phase 1, located in the 8th Election District, with an expiration date of 7/1/2007. Motion carried 5-0.

3. Department of Recreation, Parks, and Community Services (*Cynthia Brown, Community Services Division Mgr., RP&CS*)

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Maryland State Police Contract for Extraordinary Law Enforcement Services in the amount of \$11,400 for the Lexington Park/Great Mills Community Policing Project. Motion carried 5-0.

Cynthia Brown to find out if the MSP have a bicycle patrol.

4. Department of Aging (*Julie Van Orden, Manager, DoA*)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the Medicaid Waiver Application for a Grant to provide Local Administration of Medicaid Waiver for Older Adults during fiscal year 2007 and to sign the related Budget Amendment. Motion carried 5-0.

Commissioner Jarboe moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the Cooperating Agency Agreement for Clinical Experience between the St. Mary's County Department of Aging and the College of Southern Maryland. Motion carried 5-0.

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the Applications Renewal and Management Plan for the Vivian Ripple Center. Motion carried 5-0.

5. Land Use & Growth Management (*Denis Canavan, Director, LU&GM*)

Commissioner Mattingly moved, seconded by Commissioner Raley, to approve and authorize the Commissioner President to sign the Budget Amendment reducing the supplemental reserve expense and revenue account and increasing the over lot grading expense and revenue. Motion carried 5-0.

6. Commissioner Jarboe moved, seconded by Commissioner Mattingly, to appoint the following St. Mary's County citizens to these Boards, Committees, and Commissions:

BOCA Code Appeals Board: James P. Bacot – Reappointment, Michael J. Mummaugh - Reappointment

Commission for Women: Rose Ann Everett, Dora Hanna – Reappointment, Darlene Johnson – Reappointment, Marta Kelsey – Reappointment, Kathleen M. Werner – Reappointment, Juanita Nether

Commission on the Environment: John Rowland

Development Review Forum: Daniel W. Burris – Reappointment, Star Mahaffey,

Ethics Commission: George R. Baroniak – Reappointment, Viola M. Gardner - Reappointment (Alternate)

Family Violence Coordinating Council: Ella May Russell - Department of Social Services Representative, The Honorable Karen H. Abrams - Circuit Court Representative, H. S. Lanny Lancaster - Three Oaks Center Representative

Historic Preservation Commission: Mary Hayden – Reappointment, Ruth M. Mitchell, William G. Farrar

Human Relations Commission: Rose Ann Everett, James P. Hanley

Mental Health and Addictions Advisory Council: Betsy Callahan – Reappointment, William B. Icenhower – Reappointment, Jeff Rockenbau - Reappointment

Metropolitan Commission: Frank E. Taylor - Reappointment

Nursing Center Governance Board: James O. Farrell, James K. Raley, Evelyn Holland – Reappointment, Kimberly Oliver- Reappointment, Mary Pat Pope – Reappointment, W. David Viar, Jr.

Planning Commission: Shelby P. Guazzo

Social Services Board: Darlene Johnson – Reappointment, Monika Williams – Reappointment,

Judy Gilman, Kevin Lee Grant

St. Mary's Interagency Children's Council: Kelsey Bush – Reappointment, Janis Cooker – Reappointment, Melonie Sherman – Reappointment, Lori Werrell - Reappointment

Teen Center Advisory Board: Thomas K. Spring

Zoning Board of Appeals: Ronald C. Delahay, Sr. - Reappointment

DEPARTMENT OF LAND USE & GROWTH MANAGEMENT: PROPOSED ORDINANCE TO PROHIBIT THE USE OF TRANSFERABLE DEVELOPMENT RIGHTS (TDRS) TO INCREASE DENSITY ABOVE ONE DWELLING UNIT PER FIVE ACRES IN A RURAL LEGACY AREA

Present: Denis Canavan, Director

A Public Hearing was held on June 27, 2006, to consider a proposed Ordinance to amend Section 26.2.2 of the Comprehensive Zoning Ordinance to prohibit the use of Transferable Development Rights (TDRs) to increase density above one dwelling unit per five acres in a Rural Legacy Area. No additional comments were received during the open record period following the hearing.

Commissioner Raley moved, seconded by Commissioner Jarboe, to amend Section 26.2.2 of the Comprehensive Zoning Ordinance to prohibit the use of TDRs to increase density in Rural Legacy Areas as recommended by the Planning Commission and staff. Motion carried 5-0.

DEPARTMENT OF LAND USE & GROWTH MANAGEMENT: PROPOSED ORDINANCE TO AMEND CHAPTER 65 OF THE COMPREHENSIVE ZONING ORDINANCE TO ALLOW OFF-SITE ADVERTISING FOR NONPROFIT AND CIVIC ORGANIZATIONS

Present: Denis Canavan, Director

Jeff Jackman, Senior Planner

The Board of County Commissioners held a Public Hearing on June 27, 2006, to consider amendments to the Comprehensive Zoning Ordinance to allow off-site advertising of nonprofit and civic organizations and of special events sponsored by these organizations.

Mr. Canavan provided an explanation of each of the proposed amendments and reviewed staff and Planning Commission recommendations. Staff has made the change requested by Commissioner Mattingly to change the reference to 501(c)3 to just 501(c) to accommodate different types of

nonprofits, such as fire departments, and has also included language to allow nonprofits to have one, 40 square-foot freestanding sign no more than 18 feet high.

No additional comments were received during the open record period following the hearing.

Commissioner Mattingly moved, seconded by Commissioner Jarboe, to approve the proposed Zoning Text Amendment as presented to allow off-site advertising for nonprofit and civic organizations. Motion carried 5-0.

DEPARTMENT OF LAND USE & GROWTH MANAGEMENT: PROPOSED ORDINANCE TO AMEND CHAPTERS 51 & 65 OF THE COMPREHENSIVE ZONING ORDINANCE TO ALLOW OFF-SITE ADVERTISING FOR HOME OCCUPATIONS

Present: Denis Canavan, Director

Jeff Jackman, Senior Planner

The Board of County Commissioners held a Public Hearing on June 27, 2006, to consider amendments to the Comprehensive Zoning Ordinance to allow off-site advertising of home occupations for directional purposes only for a period of 30 thirty days. Staff was instructed to eliminate the sunset clause from the proposed Text Amendment and the record was held open for ten days. No additional comments were received during that ten-day period.

Mr. Canavan provided an explanation of each proposed amendment and reviewed staff and Planning Commission recommendations. Two versions of the proposed Ordinance were provided for the Board's consideration. One version included a provision for staff's suggestion of a 30-day sunset clause due to their concern about potential wide use of this provision and sign proliferation.

Commissioner Raley moved, seconded by Commissioner Dement, to approve the proposed Zoning Ordinance Text Amendment version to allow off-site advertising for home occupations that does not include a sunset provision. Motion carried 5-0.

It was recommended that a comprehensive review of the sign provisions contained in the Zoning Ordinance be initiated.

DEPARTMENT OF LAND USE & GROWTH MANAGEMENT: PROPOSED ORDINANCE TO AMEND COMPREHENSIVE ZONING ORDINANCE TEXT RE OFFICE AND BUSINESS PARKS (OBP ZONE) -RESIDENTIAL USES, DMX ZONE, AT CHAPTERS 30, 31, 32, 50 AND 51

Present: Denis Canavan, Director

Jeff Jackman, Senior Planner

It was agreed previously to consider only the proposed amendments relative to the DMX zone at this time. The OBP amendments will be considered under a separate, proposed ordinance.

The DMX has a base zone of five units per acres. The intent of the amendment is to allow an increase in residential density to foster greater residential use in the Lexington Park Development District. The proposal would allow a base density upwards of 30 units per acre, without the purchase of TDRs.

Commissioner Raley moved, seconded by Commissioner Dement, to direct staff to come back with a proposed Ordinance regarding DMX as they have proposed, with the exception of the base density for the DMX not being 30, but 20, and with no Transferable Development Rights required. Motion carried 5-0.

DEPARTMENT OF FINANCE: DISCUSSION OF CAPITAL PROJECT MOUs

Present: Elaine Kramer, Chief Financial Officer

Phil Rollin, Director, Dept. of Recreation, Parks and Community Services

George Erichson, Director, Dept. of Public Works and Transportation

John Savich, Director, Dept. of Economic and Community Development

The Board provided direction to staff on the terms that should be incorporated into the MOUs for several FY2007 Capital Improvement Projects (CIP). Highlights of comments made pertaining to each of the projects discussed follows below:

St. Mary's College- Amphitheatre

- BOCC needs to know purpose of funding, not specifics
- 250k for Design & Engineering is in place
- Reimbursement vs. advancement? (depends on requirements set forth by contractor that wins the bid)
- State project; have 250k State funds and 250k County funds
- County check should go to the St. Mary's College Foundation
- Status report to BOCC (not necessary for review & approval)
- Also, looking at alternate site
- MOU should outline intended used of amphitheatre (some degree of public access; e.g., River Concert Series)

Blackistone Lighthouse

- Partnership between the St. Clement's Hundred organization, St. Mary's County, the State, and the Federal Government
- County funding – 90k (FY2007)
- Update from Dick Gass (Phil Rollins)
- Have a written agreement with State (50 page document)
- Four month project, scheduled to start construction April 2007
- 90% first phase 'brick & mortar'
- Contractor would like to receive monthly payments once they start construction. The County prefers writing one check at a predetermined (when project is to start) then the St. Clement's One Hundred to provide details on how the money was spent at a later date.
- Groundbreaking this weekend
- Owned by State; St. Clements One Hundred will responsible for perpetual maintenance.

Leonardtown Wharf

- Staff has been in contact with Laschelle Miller (Town Administrator)

- 1M in County funds previous appropriated; (\$250k 2004, \$500k 2005, \$250k 2006)
- \$1.1M appropriated in County CIP in FY07 (\$200k from State POS)
- Recharacterization of funding sources (leave out bonds, use transfer taxes for flexibility)
- Going after POS (Program Open Space)
- Not sure if project (construction) remains on schedule
- MOU should include how much money is needed for Phase 1
- Original MOU itemized expenditures; revised MOU should be more general to provide the Town flexibility to shift funds if additional grants are received.
- Everything on Project Detail Sheet is Phase 1
- \$2.1M County commitment, encourage Town to obtain additional grants, then, if needed, could back County money out and use for Phase 2
- Look at County bonds application / impact fees; find out for sure if Leonardtown residents are not paying park impact fees (Leonardtown Wharf park is for County residents and general public use, not just for Leonardtown)
- Thursday is the groundbreaking for this project

Renovation of the SHA Building (Winery)

- John Savich recommending Phase 1 detail costs for facility renovation (County funds source of funding). A more structured MOU would be prepared when ready to go to renovation.
- Project will need 'business process and structure' planning
- COOP to own the business
- Building will be leased; should approach be County leasing from the Town? (come back with more structured agreement(s)); Commissioner McKay sees more as a County project, not a Town project
- Look at the best opportunity for Federal Grants
- COOP should talk about organizational structure at a high-level, need to get COOP in place (in three years, will be producing grapes)
- DECD will work out the details (and communications) with the Town: County will dispense funds (not the Town), building lease, and commitments from County.
- Bring in Ag money, reserve County money for other things that we cannot get grants for.
- Wrap-up: Brief Town on details; Pursue selecting a contractor to get a plan in place (turnkey product); Look for sources of money; Get COOP in place.

Piney Point Mitigation

- Resolved with letters (capital project)

Housing Initiatives

- 250k funded (FY2007)
- Focusing on preliminary site
- Partnership with non-profit organization(s)
- MOUs will come to the BOCC for specifics

Ag Services Center

- Discussed options regarding the Governmental Center Master Plan
- Green sheet prepared, will be on BOCC agenda for next week
- Soil Conservation Board wants to submit a letter of intent, then prepare a MOU
- Need to put together a detailed 'scenario list' and plan on how we're going to get there

Wicomico Clubhouse

- Allocations funds for clubhouse, eventually County could expect to draw
- Enterprise fund or General fund?
- Prepare a short but formal document of concerns (commitment that money will come back)

Based on the direction provided by the Board, staff will collaborate on the development of each MOU, which will subsequently be brought to the Board and the entity for approval.

COMMISSIONER TIME

Commissioner Dement

Attended the St. Mary's County National Lawn Mower Races, great fund raiser for the Optimist Club and the 7th District Rescue Squad.

Stopped by the St. George Island Improvement Association 50th Anniversary celebration.

Took the opportunity on Sunday to meet the new Maryland State Fireman's Association President, Bobby Balta of Ridge.

Attended a surprise retirement celebration and presented a commendation on behalf of the Commissioners on Saturday for Charlie Norris, celebrating his 37 years with a local bread company.

Attended the Northern Sr. Center Picnic, was a great turnout.

Commissioner Mattingly

Attended MACo mid-term Legislative Update in Annapolis. Will provide copies of materials from the meeting to the Commissioners.

Along with Tim Cameron, Director, Public Safety, went to an Emergency Preparedness Forum at the Applied Physics Lab in Laurel. Forum included presenters from Mississippi, who provided information regarding scenarios, problems, and issues that they had or didn't have in Louisiana.

Also attended a National Reunion for descendants of Marylanders that migrated to Kentucky. Congratulated Councilwoman Roberts from the Town Council on a great job coordinating the event.

Congratulated Optimist Club, 7th District Rescue Squad and Tina and Tommy Bowles on the lawn mower race event. Acknowledged that a lot of work, especially after the heavy rain, went into the event and getting the track ready. People came from all over the country to participate. Also thanked staff: Carolyn Laray, Tourism Manager and Hans Welch, Business Dev. Mgr. helped publicize event.

Spoke with a waterman from St. Jerome's who acknowledged a sailboat was able to come into a safe harbor -- St. Jerome's Creek -- during a recent storm. This was a positive result of the Dredging Project. Thanks to everyone involved with this project.

Extended a happy birthday to son, Tommy

Commissioner Jarboe

Was nice to visit with the folks attending the National Reunion of Descendants of Marylanders to Kentucky.

Had to leave the County over the weekend to attend lumber company liquidation and reflected on changes to the County.

Commissioner Raley

Extended a Happy 2nd Birthday to grandson.

Commissioner McKay

Captain Henry's Change of Command will take place this Thursday. A farewell dinner was held Thursday evening and a County seal and the Blackstone Cedar Point Lighthouse pictures were presented on behalf of the Board.

PUBLIC HEARING: PROPOSED MAJOR AMENDMENT TO RESOLUTION "PATUXENT PARK WEST" #Z82-23 FOR SHADY KNOLLS, SECTION 2, ZPUD#06-14500001

Present: Phil Shire, Planner, Dept. of Land Use and Growth Management (LUGM)

Jeff Jackman, Planner LUGM

Jerry Nokleby, Nokleby Surveying

The Public Hearing was advertised in the July 2 and July 9, 2006, editions of the *St. Mary's Today* newspaper. The purpose of the hearing was to consider and receive testimony on a proposed major amendment to the Patuxent Park West Planned Unit Development (PUD) to change designated commercial use to residential within this 11.2 acre site and to increase residential density from 5.4 units per acre to 5.9 units per acre to accommodate the additional proposed 60-dwelling units, known as Shady Knolls,

Section 2.

There was no public comment presented at the Public Hearing. The hearing was closed, but will remain open for written comments for ten days.

WILDEWOOD RESIDENTIAL, LLC: WILDEWOOD PLANNED UNIT DEVELOPMENT (PUD) UPDATE

Present: Phil Shire, Planner LU&GM

Jeff Jackman, Planner LU&GM

John Groeger, Deputy Director DPW & T Public Works

Stephen Alloy, President, Wildewood Residential, LLC

Mike Wettengel, Duball

The Wildewood Planned Unit Development (PUD) Update was requested by the Board to address community and board concerns about current development practices. The Wildewood PUD update document was presented to the Planning Committee on July 10, 2006.

On July 12, 2006, staff met with members of the community primarily in St. Andrew's Estates, which is adjacent to new development at Challenger Commons. The community's primary concern is the buffer requirements around the PUD perimeter.

Mr. Shire provided an overview of the PUD design, referencing a layout map. He noted that the PUD "Green book" buffer requirements include: a minimum 50-foot setback from the project boundary, or 75 feet from the centerline of any street adjoining the boundary, whichever is greater; existing vegetation shall be maintained for 20' or a landscaped berm at least four feet high and ten feet in width must be constructed. The developer has agreed to construct privacy fences where berms and landscaping are not considered adequate by the residents.

The presenters reviewed an aerial PUD map. The road system and residential density are in compliance with the 1989 PUD: not to exceed average 4.28 units per density area. Open space calculations identify required open space. Overall density is 884 acres, of which, 440 acres are required for open space. A "hybrid plan" is in place to address storm water runoff.

Mr. Mike Wettengel provided a PUD update and described how the Stop Work Order came about.

There was discussion about the impact of the development's growth on public facilities, traffic, and schools. Mr. Canavan noted that the PUD requires conducting a traffic impact assessment for every 2800 lots and exploring the water supply/sewer every 1600 units. Commissioner Jarboe requested that a copy of the PUD be retained in the Commissioners' Library.

In response to Commissioner McKay's question as to whether or not there was flexibility to reduce or expand the buffer, particularly as it abuts St. Andrews, Mr. Canavan referenced a letter from Lincoln Property Company indicating that in their opinion, the site plan is not flexible to allow a change in location of the units without approval by the Navy and resubmission of the site plan.

Staff confirmed that the Board does not have a foundation to go back and open the PUD and that the developers are proceeding in accordance with the PUD documents.

Commissioner Raley urged the developers to return to the way business was conducted when the Wildewood community was first developed and commented on the major communications and public relations errors made by the developers that has caused serious concern among Wildewood residents and those in adjacent neighborhoods – particularly, regarding the clear cutting of trees.

In response, Mr. Alloy made the following commitments: Wildewood developers will improve communications, not just within Wildewood, but with adjacent property owners; the issues that resulted in the stop work order will not be repeated; they will meet individually with homeowners to site the berms and landscaping and will install six-foot wooden fences at the Challenger and St. Andrew's Estates property lines if the community is still not satisfied with the berms and landscaping.

Mr. Canavan confirmed that no building permits will be issued for the development until the landscaping plan is approved, and that staff is responsible to ensure that the developers follow-up on their commitments.

In response to Commissioner Raley's question regarding newspaper allegations about clear cutting, Mr. Canavan indicated that the goal is to balance environmental sensitivity concerns with development in the development district as much as possible. Practically all of the development in the

development district affects the St. Mary's River Watershed, so it is imperative that we do all of the right things to mitigate environmental impact, including strict enforcement of storm water management regulations.

Commissioner Jarboe clarified that it is a Virginia-based company that is logging the area and *not* his company.

Commissioner Mattingly added that he still has concerns with the lack of support provided by the developers for a school site.

PUBLIC HEARING: PROPOSED AMENDMENTS OF CHAPTERS 26 (TRANSFERABLE DEVELOPMENT RIGHTS) AND 32 (PROPERTY DEVELOPMENT REGULATIONS) OF THE ST. MARY'S COUNTY COMPREHENSIVE ZONING ORDINANCE

Present: Denis Canavan, Director, Dept. of Land Use and Growth Management

Jeff Jackman, Senior Planner

The Public Hearing was advertised in the July 2 and July 9, 2006, editions of the *St. Mary's Today* newspaper.

The Transferable Development Rights (TDR) program for St. Mary's County has been studied by the Chamber of Commerce and the Agricultural Community for several months, and the Department of Land Use and Growth Management met with representatives of these groups to review their findings and recommendations. Amendments to the text of the St. Mary's County Official Zoning Ordinance have been drafted to incorporate their proposals, and were presented on February 7, 2006, to the Board of County Commissioners. The Planning Commission held public hearings on the amendments on April 10 and May 22, 2006, and recommends that the Board of County Commissioners amend the CZO as proposed by the Task Force.

Public Comments (summarized):

George Baroniak, P.O. Box 268, Dameron, representing Agriculture Preservation Board

I have three issues: First, regarding Mr. Canavan's comments on taking the Tidal Wetlands out of the calculation. We did a lot of study on this matter, including reviewing Calvert County's process, which is a model for the state. It was determined that the amount of tidal wetlands area would be so insignificant to the total, that it would be ok to proceed without taking it out of the calculation. Second concern is with the use of land under the TDR program. The Ag Preservation Board uses the same criteria for TDRs as MALPF. Third, to build a second house, don't have to buy TDRs, can take off the land, no additional cost to build. This TDR proposal has been dubbed "the peoples' document." We have many letters of endorsement and feel it is a good document with input from many groups ([environmentalists, farmers, realtors, and organizations and people throughout the County](#)). We encourage you to adopt it as presented.

Phil Riehl, Leonardtown, Chairman of the Board, Chamber of Commerce

The Chamber is proud to have served as facilitator for the community-based task force responsible for developing the TDR Proposal that is before you this evening. I have a letter dated 5/10/05, signed by our then Chairman of the Board. The letter outlines the process that was followed to develop this proposal. It also states that the St. Mary's Chamber of Commerce Board of Directors unanimously endorsed the document that was ultimately approved by the Planning Commission. I would like to go on record at this hearing, again stating that the St. Mary's County Chamber of Commerce supports this TDR Proposal and recommends your adoption.

Bill McKissack, 22738 Maple Rd., Lexington Park

I fully support the TDR proposal. The process involved a lot of community organizations, the Chamber's Governmental Affairs Committee and Board of Directors, work sessions and presentations to the Planning Commission, and drafting by community representatives. Every word has been thought through and carefully considered. The process was unusual, given that it was completely homegrown. The state is very interested in how this was accomplished. The proposal is not one group's idea, but is a compromise – a consensus. It did not come about through an adversarial process. Regarding the tidal wetlands issue - - it is cost prohibitive to survey entire properties to determine this area. The goal was to make the process

simpler. Want to thank the Farm Bureau, Agriculture Land Preservation Board, DECD, LUGM, Planning Commission and school system for their involvement. I encourage you to move along and adopt this proposal.

Jerry Nokleby, 17777 Grace Lane, Tall Timbers

I have lots of problems with the proposed TDR program. When you ask the average person about TDRs, you see a deer in the headlights look. Through my 34 years of surveying, and service on ordinance review committees, I believe the zoning text amendments as currently proposed for TDRs need to be modified extensively. I recommend that you not adopt this proposal at all. It will result in **down-zoning** of all property in St. Mary's County. We will go from **one dwelling unit per five acres to one unit per 7 ½-10 acres**. Currently, if a farmer owns 100 acres of land and wants to develop his property, he is entitled to 20 lots. If adopted, that same person, to achieve the same density, will have to purchase additional 19 TDRs. The only way you can retain your current development rights in the RPD zone is if you sell them off in the form of TDRs. The current selling price for a TDR is \$12,000 each. Need two TDRs for an additional lot in the RPD. Lots in St. Mary's County are currently selling for \$150-200,000 per lot. I fail to see how this will encourage farmers to sell TDRs and retain for farmland? I believe that before long, we will be selling for between 75 and \$100,000 a TDR. One client owns 100 acres. If the text change goes through, he plans to put up a sign "TDRs for sale \$150,000 each – Thank your County Commissioners." This will push the cost of housing through the ceiling. However bad I think the proposed text changes are for the RPD zones, they're nothing compared to the proposed changes in the development district. First off, the development districts are the areas where we want development to take place. The text changes as proposed for the land currently zoned RL, RMX, DMX, TMX, and CMX we will lose at least two dwelling units per acre (and as many as three). The development rights I refer to are currently existing incentives for clustering in the development district. The reason there is no more development in the RPD is because it's cheaper and easier to obtain project approvals in the RPD. Rural road design vs. urban road design. The open space requirement in the RPD is 50%, the same as required in the development district. To achieve the current development rights in the RPD, you purchase one additional TDR; in development district – 2 or 3 TDRS. Development will occur in the RPD where we are trying to preserve land. Leave the current TDR program alone. Leave one for five acres in the RPD, increase density one dwelling unit per four acres with the purchase of two TDRs. One dwelling unit for three acres with the purchase of 3 TDRs. One dwelling unit for two acres with the purchase of four TDRS. One dwelling unit for one acre with the purchase of five TDRs. Already have 50% open space requirement, could be required to be used for a perimeter buffer.

We designed a sub-division Laurel Ridge Estates (Golden Beach) – 20 years ago, one per acre, still considered a rural area. Helping farmers? This will devalue their land further. Give them additional sending TDRs which will result in true increase and provide them with incentive to sell TDRs and retain land for farming. Encourage growth in the development district and accommodate the same things.

Joseph Wood, Mechanicsville, President, Farm Bureau

The TDR proposal has been presented to the Farm Bureau Board of Directors (16 people). On three different occasions, Mr. Canavan spoke to each one and answered all questions. Our conclusion was to endorse the TDR proposal and we hope the Board of County Commissioners will adopt it.

Jay Duke, 44037 Joy Chapel Rd., Hollywood

Back in the 1990's, we had one in three and there was a huge furor over proposing one in 20. Leonardtown High School was full and there were many people with a great deal of anger and emotion about why one in twenty was important, one in three, one in five, etc. We came up with one in five. Although it stole from my property because I thought I was going to have one in three for my family, I thought that if we all have to live by the same rules, then ok. As complex instruments go, there is always someone out there smarter who will find a hole somewhere. And what we thought was one in five became one in three, one in one. If you got the money, we'll find a way to make it lower. Now, we get this proposal that says, if you have no money Mr. farmer and you're land rich and cash poor, we'll let you have one in ten. We're not going to broadcast that we're changing the zoning ordinance to go from one in five to one in ten, but that's what we're going to do to you. You could sell off a few TDRs. I'm very fortunate to have married into a family that bought farmland back in 1862 and now with my children living on that land, it's the sixth generation of direct descendents on this farm. The problem with family farms is that every time there is a new generation, you have to give some to everybody. If you have nine children, those 100 acres just got divided down pretty good. The facts belie that in St. Mary's County the average farm size is 40 acres. That has fluctuated

over the last 10-20 years. Since 1995, we've seen that farm go from 40/3, 40/5, and now if you have no money, we're going to be nice and give you 40/10. But if you have a little money, you could sell off a TDR for \$12,000. Although your grandchild is going to wonder why you sold off a TDR of 5 acres for \$10,000 when you could have sold it off for \$150,000 and put that off somewhere for me to have in the later years. And even in some detail in here I have some questions. Footnote at the next to last page says, if you have a parcel of 2-6 acres and you're sending the lot off to a family member, we'll let you get another one with the purchase of a TDR. Do you allow them to do that in the Legacy Area. How many family lots were carved out that were 3 acres back in the days that you had 3-acre parcels on farmland. Are all of those people going to be able to come in and say ok, I want to get another parcel off of here and I'm giving it to my son. Where are we going to track the fact that it was given to a 14 year old child. And the child – can he now sell it to someone that is non-family. What if I take my 30 some acre farm and I carve off a lot for each child and take it all the way down to 3 acres. I find some cash somewhere and I buy my way down to 3 acres. Ten years from now, can that child cut that 3 acres in half again and now we are at 1 1/2. I appreciate what Mr. Nokelby said in appreciation of the people who put a whole lot of hard work into this and there is nothing personal in my comments. When land gets divided through inheritance, it gets separated. It doesn't take too many years for a 100-acre farm to get divided. I'm not the only person in St. Mary's County who has gone around and tried to buy out cousins, cousins and more cousins to bring it back into a whole. I see myself as the steward for transferring this land to future generations. And, it is with a great deal of anger now that within ten years, I watched that go from one in three, which is what I used to negotiate with the other cousins, to one in five, to one in ten, and the only reward I get is a \$10,000 TDR. From 1 in 3, to 1 in 5, to 1 in 10. Only reward I get is a \$10,000 TDR. And yet in no newspaper, in no public document that has really been publicized has it ever been said that if you do nothing, everyone that owns land in RPD is going to one in ten. Should be a subtitle, if you have money, you get more. The whole TDR chase has taken us off base. What if we just created a higher impact fee. And if you don't cluster the homes or the homes are more than "x" feet apart, then you pay an extra \$5,000 for the extra costs of the road and sewer. If you don't put in a public sewer system, you add another \$5,000 to each impact fee. At times I think we are chasing this TDR and we're losing focus on what we want to do. Or maybe it would just be simpler to say the zoning is one in five and forget it folks, there is no exceptions. You got your guarantee and there is nothing more. There are no exceptions in the RPD. Let the exceptions go for the other areas. That's where you want the development to go anyway.

Linda Vallandingham, 21705 Indian Bridge Road, California

I support the TDR proposal with the same concerns that Mr. Baroniak and Mr. McKissick had. This is a continuous working document. I also have written testimony from Robert Jarboe who also supports the proposal. We believe the proposed program is better than the current one.

Joe Densford, P.O. Box 537, Leonardtown

It has been a privilege to serve on the TDR Task Force. I speak for John Parlett, as well, who is unable to be here. The Task Force worked for two years with involvement from several groups and individuals. One of the primary objectives is to do a better job preserving agricultural land in the RPD. All we've done has been geared toward one primary goal: to provide equity to large land owners in the implementation of the program. In exchange for preservation, greater land in the RPD. Yes, you can have 1 in 5 in RPD – after 1st house, it cost money. Impact fee to county? Or greater preservation? Bottom line, what's it going to cost you? Set aside, or cash to buy TDRs from someone else in RPD.

Most farmers want to continue farming and keep options open to develop or sell off TDRs. Our proposal gives large property owners the flexibility to make up their own minds. It does not create new density of one in ten, but accelerates preservation of land and will make the TDR program more viable than it is today. Regarding the tidal wetlands - - I agree with Bill McKissick. If you have land in the critical area and want to sell TDRs, it puts you in a surveying situation of the entire property. I understand where Denis Canavan is coming from, it sounds logical, but it violates the primary goals to make the process easier and faster. Assessments or deeds should be used as basis for TDRs. It is not a perfect document. I encourage you to vote favorably for program.

Jim Bailey, own 10 acres, 45000 Medley Neck Road

There are rules and reality. (Read from TDR document from the web). Agriculture is a business. I have learned to know where my money goes. There has been nothing tonight about the small farmer. What do I do with my property? You can't

preserve agriculture – agriculture is a business. It costs me about \$17,000 a year to farm. I do it because I like it. If I sell TDRs at \$3,000 per acre, will have to pay 10% capital gains tax. Are you preserving anything? Can't preserve a business. This proposed TDR program only makes things worse. They are just words: "preserve agriculture", it is a non-entity.

Save ? Are you going to come out and cut the grass when I'm gone? Sale of TDRs will destroy small farms. My recommendation is to take this proposal and (tore up the document).

Bubby Norris, 23678 Hurry Road, Chaptico

Regarding tidal wetlands issue – I agree with Dan Raley and George Baroniak. This is a work in progress. Task Force did not agree on all points, but came to a consensus. I support as presented without changes. Hope you do the same. It is a voluntary program.

Kenneth Boothe, P.O. Box 62, Great Mills

I consider this proposal too extreme and aggressive. I believe in voluntary ag preservation. This is far from voluntary. Deliberate and intentional zoning change to confiscate land owners property rights. Nine of the 14 members of the Task Force are either on County boards, County agencies or are County employees, or Farm Bureau members. In my opinion, it is biased. They all have an agenda. Sold development rights, want to sell or force others to sell. Document shows no one spoke on right to hold on to equity in perpetuity. You are confiscating property rights by downzoning. Recommend sticking with current density of five acres. Fee in lieu of program needs review and oversight by the Board of County Commissioners. When you are dealing with distribution of money, there is potential for conflict of interest and favoritism. Zoning should not be for sale. Right to develop if pay us money will suppress price. Won't solve growth problems – not on the backs of landowners and farmers. Cut back on demands in program. As a farmer, I don't intend to participate. Private property rights and free enterprise – disconnect farmer from equity. These are anti-property rights people. We want to downsize you to force market for TDRs. Undermines equity in your business. Government coming in and devaluing property is contrary to property rights. I haven't been helped by it. The Task Force members aren't representatives. Their agenda is to liquidate. No one represents property rights on the Task Force.

The hearing was closed, but will remain open for ten days for additional written comment.

ADJOURNMENT

The meeting adjourned at 8:20 pm.

Minutes Approved by the Board of County Commissioners on _____

Betty Jean Pasko, Senior Administrative Coordinator